

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 ASPASIA A. PAPAVALASSIOU, State Bar No. 196360
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-5547
Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2001-171

12 **ROBIN J. FISHER**
13 8386 Capricorn Way, # 29
San Diego, CA 92126

**PETITION TO REVOKE
PROBATION**

14 **Registered Nurse License No. 410088**

15
16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry (Complainant) brings this Petition to Revoke Probation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs

23 2. On or about March 31, 1987, the Board of Registered Nursing issued
24 Registered Nurse License Number 410088 to Robin Jane Flanagan, *née* Briner, and now known
25 as Robin J. Fisher (Respondent). The Registered Nurse License was in effect at all times
26 relevant to the charges brought herein and will expire on August 31, 2008, unless renewed.

27 3. In a disciplinary action entitled *In the Matter of the Accusation Against*
28 *Robin J. Briner Flanagan a.k.a. Robin Fisher*, Case No. 2001-171, the Board of Registered

1 Nursing issued a decision, effective May 3, 2004, in which Respondent's Registered Nurse
2 License was revoked. However, the revocation was stayed and Respondent was placed on
3 probation for a period of five (5) years with certain terms and conditions. A copy of that decision
4 is attached as Exhibit A and is incorporated by reference.

5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Board of
7 Registered Nursing (Board), Department of Consumer Affairs.

9 FIRST CAUSE TO REVOKE PROBATION

10 (Failure to Comply with Terms and Conditions of Probation)

11 5. At all times after the effective date of Respondent's probation, Condition 2
12 stated:

13 **Comply with Board's Probation Program** - Respondent shall fully comply with
14 the conditions of the Probation Program established by the Board and cooperate
15 with representatives of the Board in its monitoring and investigation of
16 Respondent's compliance with the Board's Probation Program. Respondent shall
inform the Board in writing within no more than 15 days of any address change
and shall at all times maintain an active, current license status with the Board,
including during any period of suspension.

17 Upon successful completion of probation, Respondent's license shall be fully
18 restored.

19 6. Respondent's probation is subject to revocation because she failed to
20 comply with Probation Condition 2, referenced above, in that she failed to notify the Board of a
21 change of address and in that she did not keep her license current. A Notice of Probation
22 Violation from the Board dated November 9, 2005 was returned as undeliverable, and
23 Respondent let her license expire on or about August 31, 2006, and did not renew it again until
24 on or about September 25, 2007.

25 SECOND CAUSE TO REVOKE PROBATION

26 (Failure to Submit Quarterly Reports)

27 7. At all times after the effective date of Respondent's probation, Condition 5
28 stated:

1 **Submit Written Reports** - Respondent, during the period of probation, shall
2 submit or cause to be submitted such written reports/declarations and verifications
3 of actions under penalty of perjury, as required by the Board. These
4 reports/declarations shall contain statements relative to Respondent's compliance
5 with all the conditions of the Board's Probation Program. Respondent shall
6 immediately execute all release of information forms as may be required by the
7 Board or its representatives.

8 Respondent shall provide a copy of this decision to the nursing regulatory agency
9 in every state and territory in which she has a registered nurse license.

10 8. Respondent's probation is subject to revocation because she failed to
11 comply with Probation Condition 5, referenced above, in that she failed to submit Quarterly
12 Reports that were due on April 7, 2007 and July 7, 2007.

13 **THIRD CAUSE TO REVOKE PROBATION**

14 (Failure to Comply with Employment Approval and Reporting Requirements)

15 9. At all times after the effective date of Respondent's probation, Condition 7
16 stated:

17 **Employment Approval and Reporting Requirements** - Respondent shall obtain
18 prior approval from the Board before commencing or continuing any employment,
19 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to
20 the Board all performance evaluations and other employment related reports as a
21 registered nurse upon request of the Board.

22 Respondent shall provide a copy of this decision to her employer and immediate
23 supervisors prior to commencement of any nursing or other health care related
24 employment.

25 In addition to the above, Respondent shall notify the Board in writing within
26 seventy-two (72) hours after she obtains any nursing or other health care related
27 employment. Respondent shall notify the Board in writing within seventy-two
28 (72) hours after she is terminated or separated, regardless of cause, from any
nursing, or other health care related employment with a full explanation of the
circumstances surrounding the termination or separation.

9 10. Respondent's probation is subject to revocation because she failed to
10 comply with Probation Condition 7, referenced above, in that she failed to notify the Board that
11 she was terminated from Villa Monte Vista on January 21, 2005. She also failed to obtain prior
12 approval before commencing work at Villa Rancho Bernardo in April 2006.

13 **FOURTH CAUSE TO REVOKE PROBATION**

14 (Failure to Complete Required Nursing Course(s))

11. At all times after the effective date of Respondent's probation, Condition 10 stated:

Complete a Nursing Course(s) - Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

12. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 10, referenced above, in that she failed to submit certificates of completion for her required courses.¹

FIFTH CAUSE TO REVOKE PROBATION

(Failure to Submit Cost Recovery Payments)

13. At all times after the effective date of Respondent's probation, Condition 11 stated:

Cost Recovery - Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1,956.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

14. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 11, referenced above, in that she failed to make any cost

1. Respondent was required to complete the following courses by April 1, 2005: Relapse Prevention and Plan Development; Chemical Dependency (4-6 hours); and Legal Aspects of Nursing (4-6 hours). She was required to complete 12-16 hours of coursework in any of the following categories by September 1, 2005: Nursing Diagnosis; Pathophysiology-Assessment; Test and Treatment; Pharmacology; and Patient Education.

1 recovery payments as agreed to by signing the cost recovery payment plan. Her balance is
2 \$1,956.00.

3 SIXTH CAUSE TO REVOKE PROBATION

4 (Failure to Complete Participation in Treatment/Rehabilitation Program)

5 15. At all times after the effective date of Respondent's probation, Condition
6 14 stated:

7 **Participate in Treatment/Rehabilitation Program for Chemical Dependence -**
8 Respondent, at her expense shall successfully complete during the probationary
9 period or shall have successfully completed prior to commencement of probation
10 a Board-approved treatment/rehabilitation program of at least six months duration.
11 As required, reports shall be submitted by the program on forms provided by the
12 Board. If Respondent has not completed a Board-approved
13 treatment/rehabilitation program prior to commencement of probation,
14 Respondent, within 45 days from the effective date of the decision, shall be
15 enrolled in a program. If a program is not successfully completed within the first
16 nine months of probation, the Board shall consider Respondent in violation of
17 probation.

13 Based on Board recommendation, each week Respondent shall be required to
14 attend at least one, but no more than five 12-step recovery meetings or equivalent
15 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support
16 group as approved and directed by the Board. If a nurse support group is not
17 available, an additional 12-step meeting or equivalent shall be added. Respondent
18 shall submit dated and signed documentation confirming such attendance to the
19 Board during an entire period of probation. Respondent shall continue with the
20 recovery plan recommended by the treatment/rehabilitation program or a licensed
21 mental health examiner and/or other ongoing recovery groups.

18 16. Respondent's probation is subject to revocation because she failed to
19 comply with Probation Condition 14, referenced above, in that she failed to provide proof of
20 attendance for one AA meeting and one Nurse Support Group meeting per week. The last
21 meeting attendance for which the Board received proof was August 21, 2004.

22 SEVENTH CAUSE TO REVOKE PROBATION

23 (Failure to Submit to Tests and Samples)

24 17. At all times after the effective date of Respondent's probation, Condition
25 16 stated:

26 **Submit to Tests and Samples -** Respondent, at her expense, shall participate in a
27 random, biological fluid testing or a drug screening program which the Board
28 approves. The length of time and frequency will be subject to approval by the
Board. Respondent is responsible for keeping the Board informed of
Respondent's current telephone number at all times. Respondent shall also ensure

1 that messages may be left at the telephone number when she is not available and
2 ensure that reports are submitted directly by the testing agency to the Board, as
3 directed. Any confirmed positive finding shall be reported immediately to the
4 Board by the program and Respondent shall be considered in violation of
5 probation.

6 In addition, Respondent, at any time during the period of probation, shall fully
7 cooperate with the Board or any of its representatives, and shall, when requested,
8 submit to such tests and samples as the Board or its representatives may require
9 for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
10 controlled substances.

11 If Respondent has a positive drug screen for any substance not legally authorized
12 and not reported to the coordinating physician, nurse practitioner, or physician
13 assistant, and the Board files a petition to revoke probation or an accusation, the
14 Board may suspend Respondent from practice pending the final decision on the
15 petition to revoke probation or the accusation. This period of suspension will not
16 apply to the reduction of this probationary time period.

17 If Respondent fails to participate in a random, biological fluid testing or drug
18 screening program within the specified time frame, Respondent shall immediately
19 cease practice and shall not resume practice until notified by the Board. After
20 taking into account document evidence of mitigation, if the Board files a petition
21 to revoke probation or an accusation, the Board may suspend Respondent from
22 practice pending the final decision on the petition to revoke probation or the
23 accusation. This period of suspension will not apply to the reduction of this
24 probationary time period.

25 18. Respondent's probation is subject to revocation because she failed to
26 comply with Probation Condition 16, referenced above, in that she failed to comply with the
27 random, biological fluid testing or drug testing program. Between July 28, 2004 and April 13,
28 2006, inclusive, she failed to comply with testing for 26 of the 31 times she was scheduled to
appear. Respondent has not appeared for testing since April 13, 2006, when she tested positive
for Oxazepam and Temazepam, benzodiazepine depressants that are Schedule IV controlled
substances pursuant to California Health and Safety Code section 11057(d).

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein
24 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking the probation that was granted by the Board of Registered
26 Nursing in Case No. 2001-171 and imposing the disciplinary order that was stayed thereby
27 revoking Registered Nurse License No. 410088 issued to Robin J. Fisher;


28 2. Revoking or suspending Registered Nurse License No. 410088, issued to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Robin J. Fisher;

3. Taking such other and further action as deemed necessary and proper.

DATED: 12/7/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

SF2007200774

Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2001-171

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ROBIN J. BRINER FLANAGAN
aka ROBIN FISHER
1144 W. 150th Street
Gardena, CA 90247

Registered Nurse License No. 410088

Respondent.

NO. 2001-171

OAH No. N2003100207

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on May 3, 2004.

IT IS SO ORDERED April 1, 2004.

Sandra L. Erickson

SANDRA ERICKSON, CRNA
PRESIDENT
BOARD OF REGISTERED NURSING
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ROBIN J. BRINER FLANAGAN
aka ROBIN FISHER
1144 W. 150th Street
Gardena, CA 90247

Registered Nurse License No. 410088

Respondent.

NO. 2001-171

OAH No. N2003100207

PROPOSED DECISION

On January 6, 2004, in Oakland, California, Perry O. Johnson, Administrative Law Judge, Office of Administrative Hearings, State of California ("OAH"), heard this matter.

Char Sachson, Deputy Attorney General, represented Complainant.

Respondent Robin Fisher, also known as Robin Jane Flanagan and Robin J. Briner, appeared at the hearing of this matter, but she was not otherwise represented.

On January 6, 2004, the parties submitted the matter and the record closed.

FACTUAL FINDINGS

1. On June 13, 2002, Complainant Ruth Ann Terry, M.P.H., R.N., in her official capacity as Executive Officer, Board of Registered Nursing, Department of Consumer Affairs, State of California, made, and caused to be filed, the Accusation against Respondent Robin J. Briner Flanagan.

2. On March 31, 1987, the Board of Registered Nursing ("Board") issued Registered Nurse License Number 410088 to Respondent Robin Jane Briner Flanagan,

and since being first licensed has become known as Robin Fisher ("Respondent"). Respondent's license will expire on August 31, 2004, unless renewed, suspended or revoked before that date.

Unprofessional Conduct – Record of Criminal Convictions

a. *November 1996 Conviction*

3. On November 15, 1996, in case number 9610405, the California Municipal Court in and for the County of Los Angeles, South Bay Judicial District, convicted Respondent of violating Vehicle Code sections 23152, subdivision (a) [Driving While Intoxicated] and 12500, subdivision (a) [Driving Without a Valid License], which were misdemeanors.

Respondent's conviction in November 1996 arose out of her arrest on April 30, 1996.

4. As a consequence of the conviction, the court suspended imposition of sentencing and placed Respondent on probation for a term of three years under certain terms and conditions.

The terms and conditions of probation included an order that Respondent pay a fine of \$1,201.50. The court also commanded Respondent to complete a three-month First Offender – Alcohol and Drug Education and Counseling Program. The court dictated that Respondent possess only a restricted driving privilege that allowed her to operate a motor vehicle only to and from work and to and from the counseling program.

b. *February 2001 Conviction*

5. On February 28, 2001, in case number 348062-9, the California Municipal Court in and for the County of Alameda, Hayward Hall of Justice Judicial District, convicted Respondent, on her plea of no contest, of violating Vehicle Code section 23103.5 [Reckless Driving with Alcohol Involved], a misdemeanor.

The conviction on February 28, 2001, in case number 34-8062-9, arose out of Respondent's arrest on November 19, 2000. On February 26, 2001, Respondent executed a plea agreement wherein she agreed to a conviction under Vehicle Code section 23103.5 (that is, reckless driving with alcohol involved) on the condition that the prosecutor dropping charges under Vehicle Code section 23152, subdivision (a) [First Count] and 23152, subdivision (b) [Second Count].

6. As a consequence of the conviction, the court placed Respondent on probation for a three year term. The court ordered her to pay a fine of \$706. However,

on August 7, 2001, in case number H30541 due to another drunk driving offense that led to a felony conviction, the court revoked probation in case number 348062.

c. March 2001 Conviction

7. On March 1, 2001, in case number 96474, the California Municipal Court in and for the County of Alameda, Hayward Hall of Justice Judicial District, convicted Respondent, on her plea of no contest, of violating Vehicle Code section 23152 [Driving Under the Influence of Alcoholic Beverage, with One Prior Conviction Under the Same Statutory Provision], a misdemeanor.

The conviction in March 2001, in case number 96474, arose out of Respondent's arrest on December 1, 2000.

8. As a consequence of the March 1, 2001 conviction, on March 8, 2001, the court conducted a sentencing hearing. The court ordered Respondent to be jailed on two weekends in the Santa Rita county jail beginning, respectively, April 20, 2001, and April 27, 2001. On April 19, 2001, the court conducted another hearing whereby the court ordered the jail confinement for April to be deleted due to Respondent's "new job," but the court ordered her to surrender for the jail confinement respectively on May 4, 2001, and May 11, 2001. But, in August 2001, the term of probation was revoked.

d. August 2001 Conviction

9. On August 7, 2001, in case number H30541, the Superior Court in and for the County of Alameda convicted Respondent, on her plea of guilty, of violating Vehicle Code section 23152 [Driving Under the Influence of Alcoholic Beverage, With Three Prior Convictions], a felony.

Respondent's conviction in August 2001 arose out of her arrest on May 19, 2001.

10. At the hearing on August 7, 2001, the Superior Court committed Respondent to jail confinement from 6 to 9 months, but the court set a sentencing hearing with a further sentencing hearing with "Judge Hurley." The court noted Respondent would be placed on probation. However, the Court informed Respondent that if she violated the terms of probation she "could be re-sentenced to State Prison for 16 months, two years or three years."

On December 4, 2001, the Superior Court, through Judge Hurley, held a further proceeding. The court suspended imposition of sentence and placed Respondent on probation for a term of five (5) years.

Terms and conditions of probation included Respondent's jail commitment for a period of six months; but, the court granted her credit of 79 days for time served and good conduct while in jail. The court ordered that execution of further jail commitment be stayed. The court commanded Respondent to complete an alcohol treatment program called "Solidarity." The court commanded Respondent not to drink alcoholic beverages and to enter a "Drinking Driver Program." Furthermore, the court required Respondent to install an ignition interlock device on her vehicle. The court commanded Respondent to pay \$200 to the state's Restitution Fund, \$50 for the county Alcohol Education program and \$100 for the county's Probation Investigation fee. The court imposed total fines of \$663 upon Respondent.

Unprofessional Conduct – Alcoholic Beverages

11. As established by the criminal convictions recorded in Factual Findings 3, 5, 7, and 9, above, Respondent used alcoholic beverages in a manner dangerous or injurious to herself, another person, or the public or to the extent that such use of alcoholic beverages impaired her ability to conduct with safety to the public the practice of nursing as authorized by the license issued to her.

Alcoholic Beverage Abuse

12. As established by the criminal convictions recorded in Factual Findings 3, 5, 7, and 9, above, Respondent has a record of criminal convictions that pertain to her abuse of alcoholic beverages.

Matters in Mitigation

13. Respondent has been a licensed registered nurse for more than 13 years.

14. Since being licensed as an RN, the Board has filed no other disciplinary actions against Respondent's license.

15. Complainant offers no evidence that a complaint against Respondent's skills or performance as a registered nurse has been brought by a hospital, nurse registry, physician, other nurse or health care professional, or consumer.

16. In July 2000, Respondent married Gerald Fisher; but, within eighteen months he had become gravely ill.

17. During the times when she received the last set of drunk driving convictions, Respondent was burdened by her husband's cancer, as developed in or about September 2001, which led to his death in March 2003.

18. Respondent has worked as a nurse over the years leading up to the recent convictions.

In 1999, Respondent moved from the area of Torrance, Los Angeles County, California, to accept a position of Director of Nursing for the Saint Christopher long term care center for the elderly. The facility was owned by Melanie Rapp. At the facility that has 36 beds, Respondent supervised three other RNs and six to eight vocational nurses. Respondent ended her working relationship with Saint Christopher in about July 2000.

After working at Saint Christopher convalescent facility for the elderly, Respondent worked in Hayward, Alameda County, for Hillside Care Center as owned by Catherine Joseph. Respondent claims that she left the employment at Hillside Care Center because she was required to enroll in a residential alcoholic abuse treatment facility.

Matters in Rehabilitation

19. Respondent acknowledges that she is an alcoholic.

In recent years, Respondent has attended Alcoholics Anonymous meetings. She attended meetings in Modesto when she lived in Stanislaus County. And, now she attends, on an irregular basis, AA meetings at the Trinity Fellowship church in Pleasanton.

20. In June 2001, Respondent entered the Solidarity Residential care facility. She spent 30 days in that residential program.

21. After the felony conviction in August 2001, Respondent went into penal confinement at the Valley State Prison for women for a three month period from September 17, 2001, until about November 1, 2001. She successfully completed the requirements of the confinement.

22. Respondent proclaims that she has a sobriety date of June 17, 2001. But, she offers no competent proof in support of an unbroken period of total avoidance of consumption of alcoholic beverages since June 2001.

Matters that Suggest Respondent is Not Fully Rehabilitated

23. Respondent remains on probation from the felony conviction in August 2001. Unless, the Superior Court grants Respondent's motion for early termination, her criminal probation will not end until 2006.

Respondent regularly meets with a probation officer.

24. Respondent calls no witness to the hearing to offer evidence in support of her sobriety or rehabilitation from the criminal conviction.

25. Respondent is required to attend weekly meetings of the Multiple Offender Program.

26. Respondent does not offer competent evidence that she is a faithful participant in Alcoholics Anonymous meetings or similar behavior modification programs.

Although Respondent offers documents that note her enrollment in alcoholic beverage abuse rehabilitation programs in mid-2001, the written material pertains to her activity in 2001 and 2002. The last date recorded in the material is "July 2, 2002."

27. After her husband became gravely ill and later died, as well as due to the period of confinement in prison and rehabilitation centers, Respondent was not fully employed as a registered nurse from mid-2001 until after March 2003.

For a time in 2001 or 2002, Respondent lived in Stanislaus County. While there, she worked for ENI, a nurse registry. She secured a number of assignments in the area of Modesto and Stockton. In September 2002, Respondent left Stanislaus County to move to Hayward in Alameda County.

From about August or September 2002, Respondent worked for Redwood Convalescent facility in Hayward. She ended her working relationship with Redwood Convalescent facility in about February 2003.

In May 2003, Respondent worked for Saint Anthony long-term care facility. She helped the owner – Melanie Rapp – complete a California state inspection. But, that work relationship covered only three months.

Respondent currently works through Surgical Exchange Nurse Registry. She began that relationship in about November 2003. That registry has provided her with assignments at Highland Hospital in Oakland and Alta Bates Hospital in Berkeley. Respondent now works about 32 hours to 40 hours per week through the registry.

28. Respondent represents that she has a stable household that consists of her 17-year-old son and her. In September 2003, Respondent and her son moved to Dublin, California.

After her son completes his senior year in high school in about June 2004, Respondent plans to move to Southern California in order to be near her 76-year-old mother.

29. Respondent offers no evidence that she has been examined or treated by a psychiatrist or mental health professional so as to aid her in overcoming the past grief and emotional burdens that she has dealt with in recent years.

Costs of Investigation and Prosecution

30. Complainant establishes that before the commencement of the hearing in this matter that the Board of Registered Nursing incurred costs of investigation and prosecution of the accusation against Respondent as follows:

a. Investigative Costs from the Division of Investigation

Fiscal Year 2001/2002	3.00 hours at \$120 per hour	\$ 360.00
-----------------------	------------------------------	-----------

b. Department of Justice ("DOJ")
Deputy Attorney General's Costs

Fiscal Year 2001/2002	10.00 hours at \$112 per hour	\$1,120.00
Fiscal Year 2002/2003	3.00 hours at \$112 per hour	336.00
Fiscal Year 2003/2004	1.25 hours at \$112 per hour	140.00

Subtotal Cost from DOJ	<u>1,596.00</u>
------------------------	-----------------

TOTAL COSTS INCURRED	\$1,956.00
----------------------	------------

31. Respondent offers no evidence to show that the costs sought for recovery by Complainant are not reasonable. Hence, in this matter the total reasonable costs of investigation and prosecution are set at \$1,956.00.

LEGAL CONCLUSIONS

1. Business and Professions Code section 2761, subdivision (f) provides that the Board of Registered Nursing may take disciplinary action against Respondent's registered nurse license for "conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse...."

Cause for disciplinary action exists under Business and Professions Code section 2761, subdivision (f), by reason of the matters set forth in Factual Finding 3, 5, 7 and 9.

2. Business and Professions Code section 2762, subdivision (b) specifies it is unprofessional conduct for a person licensed [under the Nursing Practice Act] to "... [o]btain or possess in violation of law ... alcoholic beverages ... to an extent or in a manner dangerous or injurious to ... herself, any other person, or the public or to the extent that such use impairs ... her ability to conduct with safety to the public the practice authorized by ... her license."

Respondent engaged in unprofessional conduct by her long history of use of alcoholic beverages. Although she appears to be on a path towards rehabilitation, Respondent does not provide sufficient competent evidence that she is fully rehabilitated so as to safely practice as a registered nurse. Any regular or persistent use of the drug methamphetamine is injurious to Respondent as a registered nurse and contributing member of lawful society. Any nurse dependent with a history of abuse of alcoholic beverages as shown through a record of, at least, four criminal convictions related to use of alcoholic drinks, has her abilities impaired in the conduct of the practice of the nursing profession.

Cause for disciplinary action exists under Business and Professions Code section 2762, subdivision (b), by reason of the matters set forth in Factual Findings 3, 5, 7 and 9, inclusive.

3. Business and Professions Code section 2762, subdivision (c) specifies unprofessional conduct is manifested by a registered nurse by reason of being "convicted of a criminal offense involving the ... consumption or self-administration of" alcoholic beverages.

Cause for disciplinary action exists under Business and Professions Code section 2762, subdivision (c), by reason of the matters set forth in Factual Findings 3, 5, 7 and 9, inclusive.

4. Complainant has requested that Respondent be ordered to pay the Board's costs of investigation and prosecution. Business and Professions Code section 125.3 prescribes that a "licentiate found to have committed a violation or violations of the licensing act" may be directed "to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

The reasonable costs of investigation and prosecution as set forth in Factual Findings 30 and 31 are in the amount of \$1,956.

The total amount of Complainant's costs is not unreasonable. Respondent is obligated to pay the adjusted measure of the costs incurred in the investigation and prosecution of the accusation in this matter.

ORDER

IT IS HEREBY ORDERED that Registered Nurse License Number 410088 issued to Respondent Robin Jane Briner Flanagan, also known as Robin Fisher, is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following conditions.

SEVERABILITY CLAUSE –

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

- (1) OBEY ALL LAWS – Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

- (2) COMPLY WITH THE BOARD'S PROBATION PROGRAM – Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

- (3) REPORT IN PERSON – Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

(4) RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE –

Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Respondent's probation is tolled, if and when she resides outside of California. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Respondent shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

(5) SUBMIT WRITTEN REPORTS – Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

(6) FUNCTION AS A REGISTERED NURSE – Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

- (7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS – Respondent shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

- (8) SUPERVISION – Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum – The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

- (b) Moderate – The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.
 - (c) Minimum – The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.
 - (d) Home Health Care – If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.
- (9) EMPLOYMENT LIMITATIONS – Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

- (10) COMPLETE A NURSING COURSE(S) – Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

- (11) COST RECOVERY – Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$1,956.00. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

- (12) VIOLATION OF PROBATION – If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

- (13) LICENSE SURRENDER – During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request

and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

- 1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or
- 2) One year for a license surrendered for a mental or physical illness.

- (14) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE – Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

Based on Board recommendation, each week Respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

- (15) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS – Respondent shall completely abstain from the possession,

injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, Respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Respondent's history of substance abuse and will coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

- (16) SUBMIT TO TESTS AND SAMPLES – Respondent, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. Respondent is responsible for keeping the Board informed of Respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and Respondent shall be considered in violation of probation.

In addition, Respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke

probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Respondent from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

- (17) MENTAL HEALTH EXAMINATION – Respondent shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by Respondent.


If Respondent is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Respondent that a mental health determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must

establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

- (18) THERAPY OR COUNSELING PROGRAM – Respondent, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: January 23, 2004


PERRY O. JOHNSON
Administrative Law Judge
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General
of the State of California
2 CHAR MEANEY, State Bar No. 161032
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
5 Facsimile: (415) 703-5480
6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2002-171

13 ROBIN J. BRINER FLANAGAN
14 1144 W. 150th Street
15 Gardena, CA 90247

ACCUSATION

16 Registered Nursing License No. 410088

17 Respondent.

18 Complainant alleges:

PARTIES

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about March 31, 1987, the Board of Registered Nursing issued
23 Registered Nursing License Number 410088 to Robin J. Briner Flanagan (Respondent). The
24 Registered Nursing License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on August 31, 2002, unless renewed.

JURISDICTION

26
27 3. This Accusation is brought before the Board of Registered Nursing
28

1 (Board), under the authority of the following sections of the Business and Professions Code
2 (Code).

3 4. Section 2750 of the Business and Professions Code ("Code") provides, in
4 pertinent part, that the Board may discipline any licensee, including a licensee holding a
5 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
6 2750) of the Nursing Practice Act.

7 5. Section 2761 of the Code states:

8 "The board may take disciplinary action against a certified or licensed nurse or
9 deny an application for a certificate or license for any of the following:

10 "(a) Unprofessional conduct, which includes, but is not limited to, the following:
11

12 "(f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the record of the
14 conviction shall be conclusive evidence thereof.
15

16 6. Section 2762 of the Code states:

17 "In addition to other acts constituting unprofessional conduct within the meaning
18 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed
19 under this chapter to do any of the following:

20 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a
21 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish
22 or administer to another, any controlled substance as defined in Division 10 (commencing with
23 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
24 defined in Section 4022.

25 "(b) Use any controlled substance as defined in Division 10 (commencing with
26 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
27 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
28 injurious to himself or herself, any other person, or the public or to the extent that such use

1 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
2 license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption,
4 or self-administration of any of the substances described in subdivisions (a) and (b) of this
5 section, or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof.

8 "(d) Be committed or confined by a court of competent jurisdiction for
9 intemperate use of or addiction to the use of any of the substances described in subdivisions (a)
10 and (b) of this section, in which event the court order of commitment or confinement is prima
11 facie evidence of such commitment or confinement.

12 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible
13 entries in any hospital, patient, or other record pertaining to the substances described in
14 subdivision (a) of this section."

15 7. Section 2764 of the Code provides, in pertinent part, that the expiration of
16 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
17 against the licensee or to render a decision imposing discipline on the license.

18 8. Section 2811(b) of the Code provides, in pertinent part, that the Board
19 may renew an expired license at any time within eight years after the expiration.

20 9. Section 125.3 of the Code provides, in pertinent part, that the Board may
21 request the administrative law judge to direct a licensee found to have committed a violation or
22 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
23 and enforcement of the case.

24 FIRST CAUSE FOR DISCIPLINE

25 (SECTION 2761(f): CRIMINAL CONVICTIONS)

26 10. Respondent has subjected her license to discipline under Business and
27 Professions Code section 2761(f) in that she was convicted of the following offenses which are
28

1 substantially related to the qualifications, functions, and duties of a registered nurse:

2 a. On November 15, 1996, respondent was convicted, by her plea of
3 nolo contendere, of violating California Vehicle Code section 23152(a) (driving while
4 intoxicated) and California Vehicle Code section 12500(a) (driving without valid license) in The
5 People of the State of California v. Robin Jane Briner-Flanagan, Los Angeles County Superior
6 Court Case No. 6SB04610 (arising out of an April 30, 1996 arrest).

7 b. On February 26, 2001, respondent was convicted, by her plea of
8 nolo contendere, of a violation of California Vehicle Code section 23103.5 (reckless driving with
9 alcohol involved) in People of the State of California v. Robin Jane Briner, a.k.a. Robin Jane
10 Flanagan, Alameda County Superior Court Case No. 348062-9 (arising out of a November 19,
11 2000 arrest).

12 c. On February 26, 2001, respondent was convicted, by her plea of no
13 contest, of a violation of California Vehicle Code section 23152 (driving while intoxicated with
14 one prior conviction) in People of the State of California v. Robin Jane Briner, Alameda County
15 Superior Court Case No. 96474 (arising out of a December 1, 2000 arrest).

16 d. On August 7, 2001, respondent was convicted, by her plea of
17 guilty, of a violation of California Vehicle Code section 23152 (driving while intoxicated with
18 three prior convictions) in The People of the State of California v. Robin Jane Briner-Flanagan,
19 Alameda County Superior Court Case No. 351389 (arising out of a May 19, 2001 arrest).

20
21 SECOND CAUSE FOR DISCIPLINE

22 (SECTION 2762(b): ALCOHOL ABUSE)

23 11. Respondent has subjected her license to discipline under Business and
24 Professions Code section 2762(b) in that she used alcoholic beverages in a manner dangerous or
25 injurious to herself, any other person, or the public or to the extent that such use impaired her
26 ability to conduct with safety to the public the practice authorized by her license, as follows:

27 a. On November 15, 1996, respondent was convicted, by her plea of
28 nolo contendere, of violating California Vehicle Code section 23152(a) (driving while

1 intoxicated) and California Vehicle Code section 12500(a) (driving without valid license) in The
2 People of the State of California v. Robin Jane Briner-Flanagan, Los Angeles County Superior
3 Court Case No. 6SB04610 (arising out of an April 30, 1996 arrest).

4 b. On February 26, 2001, respondent was convicted, by her plea of
5 nolo contendere, of a violation of California Vehicle Code section 23103.5 (reckless driving with
6 alcohol involved) in People of the State of California v. Robin Jane Briner, a.k.a. Robin Jane
7 Flanagan, Alameda County Superior Court Case No. 348062-9 (arising out of a November 19,
8 2000 arrest).

9 c. On February 26, 2001, respondent was convicted, by her plea of no
10 contest, of a violation of California Vehicle Code section 23152 (driving while intoxicated with
11 one prior conviction) in People of the State of California v. Robin Jane Briner, Alameda County
12 Superior Court Case No. 96474 (arising out of a December 1, 2000 arrest).

13 d. On August 7, 2001, respondent was convicted, by her plea of
14 guilty, of a violation of California Vehicle Code section 23152 (driving while intoxicated with
15 three prior convictions) in The People of the State of California v. Robin Jane Briner-Flanagan,
16 Alameda County Superior Court Case No. 351389 (arising out of a May 19, 2001 arrest).

17 THIRD CAUSE FOR DISCIPLINE

18 (SECTION 2762(c): CONVICTION - ALCOHOL ABUSE)

19 12. Respondent has subjected her license to discipline under Business and
20 Professions Code section 2762(c) in that she was convicted of the following offenses involving
21 alcohol:
22

23 a. On November 15, 1996, respondent was convicted, by her plea of
24 nolo contendere, of violating California Vehicle Code section 23152(a) (driving while
25 intoxicated) and California Vehicle Code section 12500(a) (driving without valid license) in The
26 People of the State of California v. Robin Jane Briner-Flanagan, Los Angeles County Superior
27 Court Case No. 6SB04610 (arising out of an April 30, 1996 arrest).

28 b. On February 26, 2001, respondent was convicted, by her plea of

1 nolo contendere, of a violation of California Vehicle Code section 23103.5 (reckless driving with
2 alcohol involved) in People of the State of California v. Robin Jane Briner, a.k.a. Robin Jane
3 Flanagan, Alameda County Superior Court Case No. 348062-9 (arising out of a November 19,
4 2000 arrest).

5 c. On February 26, 2001, respondent was convicted, by her plea of no
6 contest, of a violation of California Vehicle Code section 23152 (driving while intoxicated with
7 one prior conviction) in People of the State of California v. Robin Jane Briner, Alameda County
8 Superior Court Case No. 96474 (arising out of a December 1, 2000 arrest).


9 d. On August 7, 2001, respondent was convicted, by her plea of
10 guilty, of a violation of California Vehicle Code section 23152 (driving while intoxicated with
11 three prior convictions) in The People of the State of California v. Robin Jane Briner-Flanagan,
12 Alameda County Superior Court Case No. 351389 (arising out of a May 19, 2001 arrest).

13
14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein
16 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nursing License Number 410088,
18 issued to Robin J. Briner Flanagan;
- 19 2. Ordering Robin J. Briner Flanagan to pay the Board of Registered Nursing
20 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATE: June 13, 2002

24 
25 RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant

03579110-F2002 D0705

2Accusation.wpt 10/19/01

CM: 6/10/02